

## **REMARKS**

### **Rejection of claims 2, 3, 6, 7, 12 and 13 under 35 U.S.C. §112, second paragraph**

The examiner rejected claims 2, 3, 6, 7, 12 and 13 under 35 U.S.C. §112, second paragraph. Claims 2, 6 and 12 have been amended herein to replace “total number of rows in the database table” with –total number of rows in the intermediate dataset–, thereby traversing the examiner’s rejection of claims 2, 3, 6, 7, 12 and 13 under 35 U.S.C. §112, second paragraph.

### **Rejection of claims 9 and 12-14 under 35 U.S.C. §101**

Claims 9 and 12-14 were rejected under 35 U.S.C. §101 as being allegedly directed to non-statutory subject matter. Claim 9 has been cancelled herein, and therefore need not be addressed. In the rejection, the examiner states that the term “recordable media” is defined as “transmission type media such as digital and analog communication links” on p. 11 line 24 of applicants’ specification. The examiner goes on to state the language of the limitation does not restrict the recordable media from being a signal, and thus maintains the rejection of these claims. Applicants strongly assert the examiner’s rejection of these claims under 35 U.S.C. §101 is in error.

The language of applicants’ specification at p. 11 lines 22-24 states:

Examples of suitable computer-readable signal bearing media include: recordable type media such as floppy disks and CD RW (*e.g.*, 195 of FIG. 1), and transmission type media such as digital and analog communications links.

It is clear from this language the examiner has misread the specification. The term “computer-readable signal bearing media” is being discussed. This statement says the term “computer-readable signal bearing media” includes two types of media, namely:

- 1) recordable type media such as floppy disks and CD RW (e.g., 195 of FIG. 1); and
- 2) transmission type media such as digital and analog communication links.

We see from this discussion that recordable type media and transmission type media are two very different media that lie within the scope of the broader term “computer-readable signal bearing media.” However, this language makes it clear that recordable type media does not include transmission type media. In addition, when someone of reason stops to consider the differences between recordable media and transmission media, it becomes immediately clear that recordable media as recited in claims 12 and 14 cannot include transmission media as suggested by the examiner. The examples of recordable type media given in the language above include floppy disks and CD RW discs. Recordable media is inherently tangible, and does not include a non-statutory signal. The language “recordable media” as currently in claims 12 and 14 limit the invention to tangible embodiments. The examiner suggests changing “recordable media” with –computer storage media–. This suggested change is a change in form, not substance.

Claims 12 and 14 recite computer software residing on recordable media. A recordable disk containing patentable software comprises an article of manufacture (or product) that defines statutory subject matter, according to In re Beauregard, 53 F3d 1583, 35 USPQ2d 1383 (Fed. Cir. 1995). Should the examiner question whether claims 12 and 14 recite statutory subject matter under 35 U.S.C. §101, applicants suggest the examiner take these claims to a 101 committee for review. Applicants’ attorney has prosecuted dozens of similar claims to successful issuance that recite a computer-readable program product in the preamble and recordable media bearing software in the last clause under the current guidelines. Any 101 committee should conclude claims 12 and 14 recite statutory subject matter under 35 U.S.C. §101. Applicants respectfully request reconsideration of the examiner’s rejection of claims 12 and 14 under 35 U.S.C. §101.

#### Rejection of claims 1, 5 and 9 under 35 U.S.C. §103(a)

The examiner rejected claims 1, 5 and 9 under 35 U.S.C. §103(a) as being unpatentable over Burger in view of AAPA. Claims 1, 5 and 9 have been cancelled herein, and therefore need not be addressed.

#### Objection to claims 2-3, 6-7 and 12-13

The examiner indicated claims 2-3, 6-7 and 12-13 contain allowable subject matter, and objected to these claims as depending on rejected independent claims. Claims 2, 6 and 12 have been amended herein to incorporate the limitations of the independent claims they depended on, thereby placing these claims in proper independent form. As a result, claims 2, 6 and 12 are allowable. In addition, claims 3, 7 and 13 depend on claims 2, 6 and 12, respectively, and are therefore allowable as depending on allowable independent claims.

#### Allowance of claims 4 and 8

The examiner allowed claims 4 and 8. Applicants thank the examiner for allowing these claims.

### Conclusion

In summary, none of the cited prior art, either alone or in combination, teach, support, or suggest the unique combination of features in applicants' claims presently on file. Therefore, applicants respectfully assert that all of applicants' claims are allowable. Such allowance at an early date is respectfully requested. The Examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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